

UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
WASHINGTON, DC

In the Matter of:

**ATLANTIC WORLD
AIRWAYS, INC.**

FAA Order No. 95-23

Served: October 13, 1995

Docket No. CP95SO0063

ORDER

Atlantic World Airways, Inc. (Atlantic) has failed to file an appeal brief. Its appeal brief was due September 5, 1995.¹ The Rules of Practice provide that where a party has failed to file an appeal brief, its appeal is subject to dismissal. 14 C.F.R. § 13.233(d)(2). The Administrator has held, however, that where a notice of appeal contains sufficient detail, it may meet the requirements for an appeal brief. In the Matter of Woodhouse, FAA Order No. 95-9 (May 9, 1995); In the Matter of Columna, FAA Order No. 94-15 (June 15, 1994); In the Matter of Beck, FAA Order No. 92-39 (June 15, 1992).

The Rules of Practice require parties to detail in the appeal brief their specific objections to the initial decision. 14 C.F.R. § 13.233(d)(1). Atlantic's notice of appeal contains Atlantic's specific objections to the law judge's initial decision. It therefore meets the requirements for an appeal brief.

Complainant is ordered to file a reply brief within 35 days from the service date of this order. In its reply brief, Complainant should answer the following questions:

¹ Section 13.233(c) of the Rules of Practice, 14 C.F.R. § 13.233(c), requires a party to perfect its appeal by filing an appeal brief within 50 days after service of the written initial decision on the party. Section 13.211(e) provides an additional 5 days to respond after service by mail, and Section 13.212(c) provides that if the last day of time period is a Saturday, Sunday, or a legal holiday, the time period runs until the end of the next day that is not a Saturday, Sunday, or holiday.

The law judge served his written initial decision, entitled "Order Dismissing Request for Hearing and Assessing Civil Penalty," on the parties on July 10, 1995. As a result, Atlantic's appeal brief was due on September 5, 1995.

1. Did Complainant receive a copy of Atlantic's answer to the complaint and to the order to show cause, the letter dated June 20, 1995, from Mark Blanton, President and Chief Executive Officer of Atlantic, to Chief Administrative Law Judge Mathias?²
2. If so, what was the mailing date of the June 20, 1995, letter, as evidenced by the certificate of service, if there was a certificate of service, or the postmark?

In its reply brief, Complainant need not limit itself to addressing the questions listed above; Complainant may address any other appropriate matters as well.

DAVID R. HINSON, ADMINISTRATOR
Federal Aviation Administration



VICKI S. LEEMON³
Manager, Adjudication Branch

Issued this 13th day of October, 1995.

² Judge Mathias's order of March 13, 1993, required Atlantic to send all future communications regarding the proceeding to the persons named on the service list, including Complainant.

³ Issued under authority delegated to the Chief Counsel and the Assistant Chief Counsel for Litigation by Memorandum dated October 27, 1992, under 49 U.S.C. § 322(b) and 14 C.F.R. § 13.202 (*see* 57 Fed. Reg. 58,280 (1992)) and redelegated by the Assistant Chief Counsel for Litigation to the Manager, Adjudication Branch, by Memorandum dated August 6, 1993.